



DEPARTMENT OF THE NAVY  
OFFICE OF CIVILIAN HUMAN RESOURCES  
614 SICARD STREET SE SUITE 100  
WASHINGTON NAVY YARD, D.C. 20374-5072

MAY 18 2011

The Honorable Leonard Lance  
Member, United States House  
of Representatives  
23 Royal Road, Suite 101  
Flemington, NJ 08822

Dear Congressman Lance:

Thank you for your letter of May 4, 2011, to the Department of the Navy (DON), Office of Legislative Affairs on behalf of your constituent (b) (6) (b) (6) is a former Police Officer, GS-0083-06, at the Naval Support Activity (NSA), Lakehurst, New Jersey. He requests assistance to determine if he is entitled to back pay as part of the resolution of the unfair labor practice (ULP) charges filed by the National Association of Government Employees Local R2-84 in 2004, and again in 2008.

The ULP was ongoing at the time of (b) (6) retirement in August 2009, but was resolved in 2010. Under the unique collective bargaining agreement (CBA) at NSA Lakehurst, prior to January 2005 police officers were paid for 8½ hours per day. This included time for weapons issue and turn-in as well as shift instructions and inspections. There was no formal designated lunch break, but covered employees were permitted to eat sometime during the paid 8½-hour-shift, upon approval by the shift supervisor. This was covered in Section 1, Article 34 of the CBA. The CBA separately provided, in Section 2, Article 34 that the basic workweek consisted of 5 consecutive workdays of 8½ hours and that any time over 8 hours was compensated as overtime. In 2004 activity management revoked these provisions as violating Federal labor law. The union responded with two ULPs in 2004 and a grievance in 2008. In each case, the Federal Labor Relations Authority sustained the management position and, as a result, there was no backpay entitlement for any of the police officers involved.

The enclosure provides a timeline of actions and current status of the ULP/grievance regarding overtime pay.

I hope this information is helpful in responding to (b) (6). Further correspondence on this case should be addressed to me, ATTN: Code 016/pf/550.

Sincerely,

(b) (6)

Director, Assessment and  
Workforce Inquiries Division

Enclosure (1)

### Chronology of Events

November 2004	NSA Lakehurst informs NAGE Local R2-84 that it will no longer honor Sections 1 and 2 of Article 34 as the language excessively interferes with management's right to assign work.
January 2005	After discussions with the union failed to produce a settlement, management implemented its decision to no longer honor the noted contract provisions.
February 2005	The union filed two unfair labor practice charges with the Federal Labor Relations Authority (FLRA).
April 2005	FLRA Boston dismisses both union charges, determining that the provisions at issue did, in fact, interfere with management's right to assign work.
May 2005	The union appeals the Boston Regional Office decision to Office of General Council (OGC) for FLRA.
December 2005	OGC finds no basis to reverse or remand the Boston Regional Office decision, and the union does not pursue the matter further until 2008.
February 2008	After a change in local leadership, the union files a grievance alleging that management is violating Article 34 Sections 1 and 2, by not paying ½ hour of overtime each day. The grievance is denied through the steps of the grievance procedure, based in part on the fact that the noted provisions had been declared unenforceable by the FLRA over 2 years prior. Nonetheless, the union invokes arbitration.
February 2010	The arbitrator, despite being made aware of the earlier actions by the FLRA, finds that management has been violating Article 24 Sections 1 and 2 since January 2005 and awards back pay.
May 2010	DON files an exception to the award asserting the arbitrator did not have jurisdiction as the matter had already been addressed and resolved by the FLRA in 2005.
July 2010	The FLRA sustained DON's assertions and sets aside the award invalidating any back pay entitlement. The union does not challenge the ruling in the courts.